THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, the 11th day of July,2007

W.P.No.25769 of 2003

Between:-

Smt. P. Venkataravamma … Petitioner

and

The Revenue Divisional Officer,
Vijayawada, Krishna District
and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.25769 of 2003

ORAL ORDER:

This Writ Petition is filed being aggrieved by an Order of cancellation of authorization held by the petitioner for the fair price shop of Punnavalli village, Chandarlapdu Mandal, Krishna District, passed by the 1st respondent-Revenue Divisional Officer, Vijayawada through his Order in Rc.A1.2497/96, dated 26-3-1997, which was confirmed by the appellate authority-Joint Collector, Krishna District at Machilipatnam (2nd respondent) through his Proceedings dated 11-12-1998 and further by the Revisional Authority-District Collector, Krishna at Machilipatnam (3rd respondent) in his Proceedings dated 25-12-2002.

It appears, petitioner was an authorized fair price shop dealer of Punnavalli village, Chandarlapdu Mandal, Krishna District. While so, she was served with a charge sheet enumerating the following three charges:

1. that she being a responsible F.P. shop dealer of Punnavalli village, is not residing in Punnavalli village and coming from Veladikothapalem village for the purpose of distribution of commodities;
2. that on conduct of physical verification of stocks with reference to the stock register maintained by the dealer for the month of September '96, there was shortage of 0.45 kgs of Rice, 16 kgs of sugar and 12 kgs of P.Oil. Thus the dealer has not maintained the proper and true accounts;
3. that the dealer is selling the commodities at the following rates than the rates fixed by the Government.

Petitioner gave an explanation to the said charges and only on the basis of the same, the 1st respondent passed the impugned Order on 26-3-1997 cancelling the authorization. It appears, no enquiry, known to law, has been conducted and no witness was examined and the report submitted by the Mandal Revenue Officer has not been furnished to the petitioner before passing the impugned Order. In fact, the petitioner submitted her detailed explanation and the same, as against all the charges, was dealt with by the 1st respondent as under:

> "The matter was examined with reference to the charges framed and the explanation offered by the dealer and the material papers available on record and found that the charges I and III are held proved as the dealer has accepted them. The explanation given by the dealer for charge No.II is not convincing. She being a responsible dealer should have suggested the cardholders who lost the cards to apply to the Mandal Revenue Officer, Chandarlapadu for duplicate cards, but not take a decision by herself and cannot take cover of this for the shortfall of the commodities. She has pleaded in her explanation to treat this as a first mistake and view it leniently, but I am of the opinion that she does not mean what she has written or said as she has again violated the conditions by not lifting the stocks for two months causing inconvenience to the consumers. Thus, the authorization of Smt.P.Venkatravamma, F.P.Shop dealer of Punnavalli village is hereby cancelled with immediate effect as the dealer has violated the Conditions 7 and 8 of the F.P. Shop authorization issued and clause 16(4) of the A.P.S.C. (RDCS) Orders,1973."

The said Order was confirmed by the appellate authority as well as revisional authority. There is no necessity of going into all the details. The conclusions reached by the primary authority-Revenue Divisional Officer as confirmed by the appellate and revisional authorities are neither reasonable nor logical. Further, no detailed enquiry has been conducted before passing the impugned order of cancellation. That apart, the charges are trivial in their nature and

added to that, the report purported to have been submitted by the Mandal Revenue Officer as to the failure on the part of the petitioner to lift stocks for the months of October,1996, January,1997 and February,1997 was not put to the petitioner and she was not asked for any explanation for the same. Further, no person/card holder of the village was examined during the enquiry by the Mandal Revenue Officer.

Regarding charge No.1, petitioner gave an explanation stating that due to certain domestic disputes, she was not residing in her inlaws' place i.e. at Punnavalli village and she is residing at Veladikothapalem village and coming to Punnavalli village and distributing the goods to the cardholders properly. This was not denied or met with by the 1st respondent in the impugned Order. What exactly the irregularity committed by the dealer-petitioner is not known. In fact, for charge No.2, she gave a very reasonable and cogent explanation, but the same was not taken into consideration, though it was accepted that such a situation exist in the village, except saying that the petitioner cannot take a decision by herself and cannot take cover of this for the shortfall of the commodities. In fact, petitioner admitted certain mistakes committed by her. Instead of taking a lenient view of the matter, the 1st respondent-Revenue Divisional Officer passed an order of cancellation of authorization of the fair price shop dealership. Except the said trivial charges, which are not supported by any oral or documentary evidence, there is no other allegation made against the petitioner. This is not a case where the petitioner is alleged to have indulged in any malpractice as such. It appears, petitioner was not happy in the inlaws' house at Punnavalli village; therefore, she was residing at her parent's house and visiting the Punnavalli village every day for distributing the commodities. Further,

absolutely, there is no allegation that there is any complaint from the villagers against the petitioner.

While admitting the Writ Petition on 11-12-2003, though no stay was granted by this Court, it was made clear that if the petitioner succeeds in the Writ Petition, her case for restoration of authorization of fair price shop dealership of Punnavalli village shall be considered.

In view of the above, the impugned Orders dated 26-3-1997 passed by the 1st respondent, as confirmed by respondents 2 and 3 in their Proceedings dated 11-12-1998 and 25-12-2002 are liable to be set aside and are accordingly set aside. Respondents are directed to restore the authorization of the petitioner forthwith.

Accordingly, the Writ Petition is allowed. No order as to costs.

11-7-2007

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